

ARTICLE 2

GENERAL REGULATIONS

PART 1 2-100 SCOPE OF REGULATIONS

2-101 Territorial Application of Regulations

The provisions of this Ordinance shall apply to all land, water, uses and structures in the unincorporated territory of the County of Fauquier, Virginia.

2-102 General Effect

No structure shall hereafter be erected and no existing structure shall be moved, altered, added to or enlarged, nor shall any land or structure be used, or arranged to be used for any purpose other than the uses listed in the following Articles as permitted for the zoning district in which the structure or land is located, nor shall any land or structure be used in any manner contrary to any other requirements specified in this Ordinance.

2-103 Plans, Structures Previously Approved

1. A complete final plat of subdivision submitted as required by the Subdivision Ordinance, prior to the effective date of this Ordinance shall be judged on the Ordinance in effect on the date the plan was submitted.
2. Nothing in this Ordinance shall be deemed to require any change in an unexpired site plan approved prior to the effective date of this Ordinance. Zoning permits may be issued for the approved use irrespective of the change in zoning.
3. Nothing in this Ordinance shall be deemed to require any change in the plans, construction or designated use of any existing building or any building on which construction was authorized by a Building Permit issued prior to the effective date of this Ordinance; provided, however, that actual construction commences, as evidenced by performance of the first required inspection on the building or designated use within six (6) months after the date of issuance of such permit.
4. For so long as the site plan remains valid in accordance with the provisions of **Part 2 of Article 8** and **Part 8 of Article 9**, or in the case of a recorded final plat of subdivision for five (5) years after approval, nothing in this Ordinance shall adversely affect the

right of the subdivider or developer or his successor in interest to commence and complete an approved development in accordance with the lawful terms of the approved site plan or recorded plat. An exception to this provision may be made if the changes to this Ordinance were required to comply with state law or if there has been a mistake, fraud or change in circumstances substantially affecting the public health, safety and welfare.

2-104 Exemptions

The following structures and uses shall be exempt from the regulations of this Ordinance:

- A. Wires, cables, conduits, vaults, laterals, pipes, mains, valves or other similar equipment for the distribution to consumers of telephone or other communications, electricity, gas or water, or the collection of sewage or surface water operated or maintained by a governmental entity or a public utility or public service corporation including customary meter pedestals, telephone pedestals, distribution transformers and temporary utility facilities required during building construction, whether any such facility is located underground or above ground; but only when such facilities are located in the public right-of-way or are located in easements (or strips of property owned in fee simple) not more than forty (40) feet in width and are for ordinary distribution facilities of such utilities to customers (does not include utility transmission facilities). The exemption shall not include any substation located on or above the surface of the ground or any such distribution facility located in an easement of forty (40) feet or more in width.
- B. Railroad tracks, signals, bridges and similar facilities and equipment located on a railroad right-of-way, and maintenance and repair work on such facilities and equipment.

PART 2 2-200 ZONING DISTRICTS AND BOUNDARIES

2-201 Zoning Districts

The unincorporated territory of the County of Fauquier shall be divided into zoning districts as presented in **Articles 3 through 7** of this Ordinance.

2-202 Zoning Maps

The location and boundaries of the zoning districts established by this Ordinance are indicated on a map entitled "Official Zoning Map, Fauquier County, Virginia", a copy of which shall be on file in the office of the Zoning Administrator. It is hereby adopted as part of this Ordinance insofar as it indicates such designations, locations and boundaries of zoning districts, and the same shall be deemed to be as much a part of this Ordinance as if the same was fully set forth herein.

2-203 Zoning of Entire Jurisdictional Area

It is the intent of this Ordinance that the entire unincorporated area of the County of Fauquier, including all land, water areas, and waterways, be included in the zoning district established by this Ordinance. All water areas, waterways, alleys, roads, streets, highways, railroads and other rights-of-way, (if not otherwise specifically designated) shall be deemed to be in the same zoning district as the property immediately abutting upon same. Where the centerline of such described water areas, waterways or rights-of-way serves as a zoning district boundary, the zoning of such areas, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to such center line.

2-204 Zoning District Boundaries

With respect to the intended boundaries of the various zoning districts as shown on the Official Zoning Map, the following rules shall apply:

1. Where such boundaries are indicated as appropriately following the centerline of streets, alleys, railroads, or waterways, such lines shall be construed to be such boundaries.
2. Where such boundaries are indicated as approximately following the lines of lots or other parcels of record, the scale to be not more than fifty (50) feet distant therefrom, such lot or parcel lines shall be deemed to be such boundaries.
3. Where a zoning district boundary divides a parcel of land, the location of such boundary, unless the same is indicated by dimensions shown on the map, shall be determined by use of the scale appearing on the map and scaled to the nearest foot.
4. Any zoning district boundary shown extended to or into any body of water bounding the County shall be deemed to extend straight to the County boundary.

5. Where further interpretation is required beyond that presented in the above paragraphs, the question shall be presented to the Zoning Administrator in conformance with the provisions of **Section 1-102**. Any person aggrieved by such decision made by the Zoning Administrator may appeal that decision in the manner prescribed in **Part 2 of Article 10**.

2-205 Uses Split by Jurisdictional Boundaries

Notwithstanding any other provision of this Ordinance, any use split by a boundary of this county and any other locality which if located wholly within this county would require an administrative permit, special permit or special exception under the terms of this ordinance shall require an administrative permit, special permit or special exception for the portion of the use located within the county.

PART 3 2-300 INTENT AND INTERPRETATION OF REGULATIONS

2-301 Statements of Purpose and Intent

The purpose and intent statements presented for each zoning district and zoning overlay district in **Articles 3 through 7** set forth the underlying and primary purpose and intent of a given district, although it shall not be concluded that a district is created solely for the fulfillment of a singular stated purpose.

2-302 Uses Not Expressly Indicated

It is the intent of this Ordinance that any use not expressly indicated as a permitted use in a specific zoning district is prohibited, except as may be allowed by administrative permit, special permit or special exception. Where uncertainties continue to exist, the question shall be directed to the Zoning Administrator in conformance with the provisions **of Section 10-102**.

2-303 Multiple Qualifying Uses

Notwithstanding that a given use might be construed to qualify as a use permitted in a district, if such use has characteristics more similar to or more specific than a particular use listed or defined elsewhere in the Ordinance, then the latter listing or definition shall govern. Where uncertainties continue to exist, the question shall be directed to the Zoning Administrator in conformance with the provisions of **Section 10-102**.

2-304 Permitted Uses

The term “permitted uses” represent only those uses which are permitted by right in a given district and do not apply to uses otherwise allowed by administrative permit, special permit or special exception.

2-305 Uses

1. No permitted, administrative permit, special permit or special exception use hereafter established, altered, modified or enlarged pursuant to this Ordinance shall be operated so as to conflict with the use limitations for the zoning district in which such use is located.
2. No permitted, administrative permit, special permit or special exception use already established on the effective date of this Ordinance shall be altered, modified or enlarged so as to conflict with or further conflict with the use limitation for the zoning district in which such use is located.
3. No structure shall hereafter be built or moved, and no structure or land shall hereafter be used or occupied, except for a use that is permitted in the zoning district in which the structure or land is located.
4. No accessory use or structure, as defined in **Article 12** shall hereafter be built, moved, remodeled, established, altered, enlarged or intensified unless such accessory use or structure complies with the provisions of **Part 7 of Article 8**.
5. No accessory service use, as defined in **Article 12**, shall hereafter be established, altered or enlarged unless such accessory service use complies with the provisions of **Part 7 of Article 8**.
6. No home occupation shall hereafter be established, altered or enlarged unless such home occupation complies with the provisions of **Part 8 of Article 8**.
7. No structure shall hereafter be built or moved, and no structure or land shall hereafter be used or occupied unless the minimum off-street parking and loading spaces required by **Part 4 of Article 8** are provided.

8. No sign shall hereafter be erected, built or displayed and no existing sign shall be moved, remodeled, altered or enlarged unless such sign complies, or will thereafter comply, with the provisions of **Part 5 of Article 8.**

2-306 Administrative Permit Uses

1. No use of a structure or land that is designated as an administrative permit use in any zoning district shall hereafter be established, and no existing use shall hereafter be changed to another use that is designated as an administrative permit use in such district unless an administrative permit has been secured from the Zoning Administrator in accordance with the provisions of **Part 6 of Article 9.**
2. No use, existing prior to the effective date of this Ordinance, which is allowed within a particular zoning district only by an administrative permit according to the provisions of this Ordinance, shall be replaced or enlarged except in accordance with the provisions of **Part 6 of Article 9.**

2-307 Special Permit Uses

1. No use of a structure or land that is designated as a special permit use in any zoning district shall hereafter be established, and no existing use shall hereafter be changed to another use that is designated as a special permit use in such district unless a special permit has been secured from the BZA in accordance with the provisions of **Part 5 of Article 9.**
2. No use, existing prior to the effective date of this Ordinance, which is allowed within a particular zoning district only by a special permit according to the provisions of this Ordinance, shall be replaced or enlarged except in accordance with the provisions of **Part 5 of Article 9.**

2-308 Special Exception Uses

1. No use of a structure or land that is designated as a special exception use in any zoning district shall hereafter be established, and no existing use shall hereafter be changed to another use that is designated as a special exception in such district unless a special exception has been secured from the Board in accordance with the provisions of **Part 5 of Article 9.**

2. No use, existing prior to the effective date of this Ordinance, which is allowed within a particular zoning district only by a special exception according to the provisions of this Ordinance, shall be replaced or enlarged except in accordance with the provisions of **Part 5 of Article 9**.

2-309

Lot Requirements

1. Except as may be specifically qualified by other provisions of this Ordinance, no structure or part thereof shall hereafter be built or moved on a lot which does not meet all of the minimum lot requirements presented for the zoning district in which the structure is located; and no structure or land shall hereafter be used, occupied or arranged for use on a lot which does not meet all of the minimum lot requirements presented for the zoning district in which such structure or land is located.
2. Only a lot that exceeds the minimum provisions of this Ordinance may be subdivided to create more lots and only where the resultant lots meet such minimum provisions of this Ordinance; however, this limitation shall not bar the re-subdivision of lots to alter dimensions or boundary location.
3. In this Ordinance, lot requirements are expressed in terms of:
 - A. Minimum district size.
 - B. Minimum development size.
 - C. Minimum lot size.
 - D. Minimum lot width.
4. Where no minimum zoning district or development size is specified, the minimum lot size lot width requirements shall define the minimum district size.
5. Where a minimum district size is specified for a given district, no parcel of lesser size shall be so classified in any location in the County except by the Board acting on its own motion pursuant to a comprehensive rezoning. However, if additional land not meeting the minimum district size may be rezoned by an individual map amendment request pursuant to **Part 4 of Article 9** if it is adjacent to a district with the same classification requested. Furthermore, parcels of less than minimum size may be combined to meet the minimum size requirement. In considering all such

requests the Board shall take into consideration the classification, character and intensity of use of other land in the location and the conformance of the request with the adopted Comprehensive Plan.

6. In the Residential Districts, minimum lot size and minimum lot width requirements are presented for conventional subdivision lots and for cluster subdivision lots, which may be allowed in accordance with the provisions of **Article 4**.
7. Except as may be specifically qualified by other provisions of this Ordinance, all uses permitted by right or allowed by administrative permit, special permit or special exception shall be subject to the lot size requirements specified for a given district. In the Residential Districts, lot sizes for non-residential uses shall be controlled by the provisions presented for residential lots unless other requirements are specified for such uses elsewhere in this Ordinance.

2-310 Bulk regulations

1. Except as may be specifically qualified by other provisions of this Ordinance, no structure or part thereof, shall hereafter be built or moved on a lot which does not meet all of the minimum bulk regulations presented for the zoning district in which the structure is located.
2. In this Ordinance, bulk regulations are expressed in terms of:
 - A. Maximum building height.
 - B. Minimum yard requirements.
 - C. Maximum lot coverage.
 - D. Maximum floor area ratio (FAR).
3. Maximum building height, where specified, shall apply to all structures located in the zoning district except as exempted from the height regulations in **Section 2-408**, below, or unless a lower maximum height is specifically established for a given use elsewhere in this ordinance. Maximum building height shall be determined in accordance with the definition of building height set forth in **Article 12**.
4. Except as may be specifically qualified by other provisions of this Ordinance, minimum yard requirement shall be as specified for a

given zoning district. The yard requirements shall apply to all buildings and structures as they relate to the lot lines, public streets and to other buildings, but shall not apply to individual units in single family attached dwellings.

5. **Minimum required yards and other setbacks from streets shall be measured from the property line for side and rear yards and, for front yards, from the centerline of the street, or from the centerline of the nearest pair of lanes in the case of a street with more than two lanes.** *<There had been some discussion of changing this provision to measure front yards from the edge of the right-of-way or pavement instead of from the centerline. This alternative may create unexpected results in areas of the County where many of the rights-of-ways are proscriptive easements. Also, unless the setbacks themselves are reduced to compensate for measuring from the side of the road rather than the center, many existing buildings in the County would be made nonconforming. Staff notes that the recent text amendment to the ordinance requiring a 150' setback from the centerline next to freeways and arterials in service districts and in the rural zoning areas—which is being carried forward in the reformatted zoning ordinance--has significantly increased setbacks along major roads. Therefore, staff recommends that no change be made to the way front yards are measured at this time, but that the issue be studied further in the context of the ongoing transportation master plan process, where areas requiring additional setbacks from roadways, and the appropriate size of such setbacks, may be identified.>*
6. Maximum lot coverage shall be determined in accordance with the definition of lot coverage set forth in **Article 12.**
7. Maximum floor area ratio (FAR) shall be determined in accordance with the definition of floor area ratio set forth in **Article 12.**

2-311 Maximum Density

In this ordinance, maximum density for residential and rural districts is expressed in number of dwelling units per acre. The maximum density specified for a given zoning district shall not be exceeded except as specifically qualified elsewhere in the Ordinance.

2-312 Open Space

In this Ordinance, minimum open space requirements are expressed as a percentage of the gross area of the lot. The open space requirements presented for a given zoning district shall be considered as a minimum, and such open space shall be located on the same lot as the primary use or structure, except as specifically provided otherwise in this Ordinance. The computation of open space areas for developments in the residential zoning districts shall be as specified in Article 4. The computation of the open space which is required for developments in the rural zoning districts shall be as specified in Article 3. Use restrictions within open space and requirements for the establishment of permanent open space easements shall be in accordance with Articles 3 and 4.

2-313 Yard, Open Space Reduction Not Permitted

Except as may be specifically qualified elsewhere in this Ordinance, no yard or other open space provided on any lot for the purpose of complying with the provisions of this Ordinance shall be reduced so as to be less in width or area than is required by this Ordinance, and no such yard or open space shall be considered as providing any part of a yard or open space for any other lot.

PART 4 2-400 LOT, BULK, DENSITY AND OPEN SPACE EXCEPTIONS AND QUALIFICATIONS

2-401 Existing Lots

If a lot was legally recorded prior to the effective date of this Ordinance, and said lot met the requirements of the Zoning Ordinance in effect at the time of recordation, then notwithstanding the minimum lot area, frontage and lot width requirements of the district in which located, said lot may be used for a use permitted in the district provided all other regulations of the district are met. The Zoning Administrator may, however, reduce the yard requirements upon determining that not doing so would unreasonably restrict a permitted use.

2-402 Areas Not Included in Lots

In the event any area of a parcel that is subdivided is not included as a part of an individual lot or part of open space established to meet the open space requirements of this Ordinance, the intended future use of the parcel shall be indicated and recorded in appropriate subdivision documents or plats. Area not included in lots shall not be less than the required

minimum lot size except for lots created for public utility use pursuant to the requirements of the Subdivision Ordinance.

2-403 Pipestem Lots

To achieve more creative planning and the preservation of natural property features, pipestem lots, as defined in Article 12, may be allowed, either as a single lot or in a group of lots not to exceed three (3) in number but only in single family detached residential cluster developments. In any development, the number of pipestem lots shall not exceed 20% of the total lots in the development. In addition, the following standards shall apply to all pipestem lots:

- 1. The area of a pipestem lot occupied solely by the pipestem driveway shall not be deemed to be a part of the required minimum lot area.**
- 2. The minimum width of a single pipestem or of parallel, adjacent pipestems shall be twenty (20) feet or such other greater width determined by the Director to be necessary due to topography, lot shape or other features.**
- 3. In no instance shall one group of pipestem lots served by a common driveway be contiguous to a second group served by a second common driveway.**
- 4. Adequate ingress and egress easements shall be provided when more than one (1) lot is to use a common driveway.**

<See attached memo on the pipestem lot issue.>

2-404 Qualifying Lots for Open Space Requirements

When open space is required in the subdivision of parcels in the rural zoning districts, the selection of the land area for residential development and the area to remain as open space shall be in accordance with **Section 3-108 and 3-208 of Article 3.**

2-405 Lots Must Have Frontage or Approved Road Access

Except for pipestem lots, each lot created subsequent to the adoption of this Ordinance shall have frontage on a public street or on a private street authorized by the provisions of **Part 3 of Article 8.** The required frontage shall be not less than the minimum lot width. The required frontage shall be measured at the rear of the minimum required front yard.

2-406 Access to Lots Fronting on More than One Street

Unless modified or waived by the Director, where a lot has frontage on two or more streets, vehicular access shall not be permitted to the higher standard street unless all of the conditions listed below are met. The street standards shall be as defined in the Comprehensive Plan and in **Article 12**, Definitions, of this Ordinance.

1. The higher standard street has a posted speed of 35 mph or less.
2. On an undivided street, the proposed access aligns with existing accesses.
3. The proposed access is no closer than 200 feet to the centerline of any street intersection.
4. The lot is located in a Service District or village.
5. The lot is zoned Commercial or Industrial or for Planned Development.
6. Provisions for combined access to adjacent lots are provided where appropriate.
7. The Virginia Department of Transportation (VDOT) has approved the access as necessary to improve public safety .

2-407 Limitation on Detached Garages, Etc.

On any lot of less than two (2) acres, the total floor area of all detached garages, sheds, pool houses and other dependencies exceeding six feet in height shall not exceed the floor area of the principal structure on the same lot. Such structures shall not exceed the height of the principal structure by more than four feet.

2-408 Height Limit Exceptions

Maximum building height, where specified in a zoning district, shall apply to all structures located in the zoning district except:

1. The height limitations of this ordinance shall not apply to barns, agricultural silos, residential chimneys, spires, cupolas, elevator penthouses, domes, flagpoles, birdhouses, flues, monuments, residential television antenna or aerials, water towers, water tanks, electrical transmission towers and cables, air conditioning units, **noncommercial radio and telecommunication towers** and other similar roof structures and mechanical appurtenances, provided:

- A. No such structure when located on a building roof shall occupy an area greater than twenty-five (25) percent of the total roof area.
 - B. No such structure shall be used for any purpose other than a use incidental to the main use of the building.
 - C. No such freestanding structure shall be located except in strict accordance with the provisions of Part 7 of Article 8.
 - D. Any antenna tower located in a district permitting residences shall be located to a height that is equal to or less than the distance from the base of the antenna to the closest property line.
2. **Height limits for telecommunications towers as defined in Article 8 Part 11** shall be as established by that section.

<This additional wording in #1 and #2, above, is needed to a) clarify that telecommunication towers are not subject to the height limit within zones but rather the height limits established by the telecommunication provisions; and b) to allow increased heights for those towers not covered under the telecommunications ordinance, such as amateur radio antenna and government telecommunications equipment.>

2-409 Minimum Yard Requirement Exceptions

- 1. The following exceptions are provided from the minimum yard requirements of zoning districts:
 - A. The following structures shall be exempt from the minimum yard requirements as set forth in this ordinance: telephone booths and pedestals, underground utility equipment, mailboxes, or any similar structure or equipment which in the opinion of the Zoning Administrator is obviously intended to be otherwise located in the public interest, and are not incongruous with the aesthetic standards of the surrounding area.
 - B. Front, side and rear yards shall not be required on lots used for agriculture purposes, open public areas or open space, but in no event shall structures associated with such open land uses be located in the required minimum yard.
 - C. The yard requirements shall apply to all buildings and structures as they relate to the lot lines, public streets and to

other buildings, but shall not apply to individual units in single family attached dwellings.

2-410 Yard Requirements for Lots and Open Space Parcels without Structures

If a lot is or will be occupied by a permitted use without structures, then the minimum yards that are permitted for such a lot under the applicable zoning district regulations shall be provided and maintained unless some other provision of this Ordinance requires or permits a different minimum yard. However, front, side and rear yards shall not be required on lots used for agriculture purposes, open public areas or open space, but in no event shall structures associated with such open land uses be located in the required minimum yard.

2-411 Yard Requirements for Lots Abutting Interstate Highways and Railroad Tracks

Notwithstanding any other provisions of this Ordinance, the following minimum distance shall be maintained between all principal buildings and the right-of-way of **Interstate 66 and railroad tracks.** ~~interstate highways. and limited access highways.~~ *< Staff recommends that the ordinance name the single interstate highway in the County specifically for the sake of clarity. In addition, there are not currently any roadways that are defined as “limited access highways” in Fauquier County other than Route 66. The Code of Virginia defines “Limited Access Highway” as follows: a highway especially designed for through traffic, over which abutters have no easement or right of light, air or access to by reason of the fact that their property abuts upon such limited access highway., therefore . Staff therefore recommends the reference to limited access highways be deleted, as it has no meaning. There is one roadway, Route 29, classified as a “Limited Access Freeway” in the County’s adopted comprehensive plan. If the Commission wishes to extend this setback requirement to Route 29 or to other major roadways, such as Route 17 or 28, staff would recommend that these roadways be specifically named in the ordinance.>*

- A. All residential buildings - 200 feet.
- B. All commercial and industrial buildings - **200 feet.** *<The current setback requirement in the ordinance for commercial buildings is 75 feet. The Commission was concerned that 200 feet might be an excessive setback for commercial buildings. With this provision, as now defined, applying only to Route 66, this regulation affects a fairly small group of properties.>*

These provisions shall not apply in those instances where a lot has been recorded prior to the enactment of this Ordinance where the enforcement of this regulation would negate the use of the lot in accordance with the provisions of the zoning district in which located.

2-412 Yard Requirements for Corner Lots

Corner lots shall be deemed to have no rear yard, only two front yards, which are adjacent to the street, and two side yards. Minimum front yard requirements apply to all parts of a lot fronting on the streets.

2-413 Reduction in Front Yard Requirements

In situations where there are one or more undeveloped residential lots immediately adjacent on both sides to lots with existing buildings with front yards less than the front yard required for the district, the Zoning Administrator may authorize the erection of buildings on such intervening lots with such front yard(s) as will, in the opinion of the Zoning Administrator, produce the most satisfactory overall design of the development and the most appropriate manner of use of the land that is involved. No front yard shall be authorized hereunder that is less than the front yard of the nearest of such existing buildings.

2-414 Reduction in Side and Rear Yard Requirements

In the interest of encouraging the most imaginative, livable, attractive and appropriate types and arrangements of dwellings on a particular site, in residential developments where the applicable minimum side and rear yard requirement is less than 25 feet, said requirement may be reduced or waived altogether by the Planning Commission or other authorized subdivision authority. Such action will be based on a finding that it would conform to the intent stated above and would not conflict with existing uses in the vicinity. Typical designs of the proposed structure shall be submitted and considered at the time of subdivision review and approval in ruling on requests under this section. The provisions of this Section shall not apply to end units in single family attached dwelling structures.

~~In order to preserve the character of existing villages and settlements, and provide for greater flexibility, the Zoning Administrator may modify the minimum side yard setback requirements in the zoning district for new infill construction in the Village (V) and Commercial Village (CV) districts. If modified, setbacks for side yards should reflect the existing spacing between buildings in a block and shall be within twenty percent of that average. <The Commission expressed some concern about this issue. We have deleted this provision from this section because structurally, since it applies to only two zones, the~~

provision is more appropriately located within the V and CV zoning regulations. Staff will re-raise this issue when we discuss the V and CV provisions and make recommendations at that time.>

2-415 Projections Allowed Within Required Yards

1. The following features, and no other, may extend from structures into required minimum yard areas, but only as qualified below. However, these restrictions may be modified pursuant to the provisions of Sections 7-112 and 7-212 of Article 7 in the PRD and PCID special planned development districts. In those developments where yard requirements are determined by a specified distance between buildings, these regulations shall likewise apply, and a perpendicular line drawn through the midpoint of the shortest line that can be drawn between the two buildings shall be employed as the lot line.
 - A. Cornices, canopies, awnings, eaves or other such similar features, all of which are at least ten (10) feet above grade, may extend three (3) feet into any required yard but not nearer to any lot line than a distance of two (2) feet. This provision shall not apply to permanent canopies over gasoline pump islands which have supports located on the pump island. Such canopies may extend into minimum required front yards, providing they do not overhang travel lanes or, if no travel lanes exist, they shall be not located closer than twenty-two (22) feet from the right-of-way line.
 - B. Sills, headers, belt courses and similar ornamental features may extend twelve (12) inches into any required yard.
 - C. Open fire balconies, fire escapes and fire towers may extend five (5) feet into any required yard.
 - D. Bay windows, balconies, or decks not to exceed 100 square feet—with floor no higher than the entrance to a building and chimneys not more than ten (10) feet in width may extend three (3) feet into any required front or side yard, ten (10) feet into any required rear yard, but not nearer to any lot line than a distance of fifteen (15) feet.
 - E. Any unroofed and completely unenclosed deck, patio or terrace with its floor no higher than that of the entrance to the building may extend six (6) feet into any required yard. An "open-work" railing or wall, which means at least fifty (50) percent of the area is open in a generally distributed

manner, not over four (4) feet high, may be erected around such patio or terrace.

- F. An outside stairway, unenclosed above and below its steps, may extend four (4) feet into any required side or rear yard, but not nearer to any side lot line than a distance of six (6) feet.

2-416 Maximum Density Calculations

1. Within the rural and residential zoning districts:
 - A. no density allowance shall be calculated for any area of a lot in an existing street right-of-way
2. Within the rural zoning districts:
 - A. fifty (50) percent density allowance shall be calculated on that area of a lot comprised of quarries.
3. Within the residential zoning districts:
 - A. fifty (50) percent density allowance shall be calculated on that area of a lot comprised of floodplain, quarries or existing water bodies
 - B. thirty (30) percent density allowance shall be calculated on that area of a lot comprised of slopes in excess of twenty-five (25) percent grade**
 - C. fifty (50) percent density allowance shall be calculated on that area of a lot comprised of slopes in excess of fourteen (14) percent but equal to or less than twenty-five (25) percent grade.**

<The County's Soil Scientist has suggested that the above categories (14-25% slopes and greater than 25% slopes be replaced in the Ordinance with the categories developed as through the County's detailed soil survey. The survey categorizes soils, in part, based on steepness of slope (D=14-25% slopes; E&F>25% slopes) and the significant work done to complete the survey would, in the opinion of staff, provide a better foundation for excluding areas for density calculations. If the Commission would like to take this approach, staff can incorporate the revised categories for the final draft.>

4. Family transfers qualifying under 2.39.3.A of the Subdivision Ordinance are excluded from Section 2-416.1, 2 and 3, above.
5. Where a lot contains more than one zoning district allowing single family detached dwellings by right, the Board, in a clustered subdivision may allow the gross density to be located on the lot in a manner which best accomplishes the purposes and intent of the proposed open space as set forth in Paragraph 2-406.
6. In cases where a given area within a lot is needed by the County for a school site, other public facility site or a major street right-of-way, then total density credit shall be calculated to include such areas. For the purpose of this paragraph, a major street right-of-way shall be deemed:
 - A. The right-of-way for a proposed four-lane facility as presented in the adopted Comprehensive Plan; or
 - B. The right-of-way for a proposed principal arterial street, or the right-of-way needed for this realignment or in improvements of all existing principal arterial streets, all as presented in the adopted Comprehensive Plan.

PART 5 2-500 QUALIFYING USE, STRUCTURE REGULATIONS

2-501 Limitation on the Number of Dwellings on a Lot

With the exception of multiple family dwelling units as permitted by the provisions of this Ordinance and lots of 50 acres or more, not more than one (1) dwelling unit shall hereafter be erected on any one (1) lot, nor shall a dwelling unit be located on the same lot with any other principal building, except as an accessory use or any accessory service use as may be permitted by the provisions of Part 7 of Article 8, One additional dwelling unit for use as a tenant house is permitted for each fifty acres of land. **Additional tenant dwellings for seasonal labor may be permitted by special exception.** *<Additional tenant dwellings will be added to the RA and RC zoning districts as a special exception use, with additional standards being added to Section 8. Loudoun County uses language similar to the following for tenant dwellings:*

- (1) *Manufactured dwellings shall be screened from view from public roads and neighboring properties.*
- (2) *All tenant dwellings shall be located on internal roads with no direct access to public roads.*

- (3) *No tenant dwelling unit shall exceed 2,500 square feet in floor area.*
- (4) *A maximum of one tenant dwelling per 25 acres may be permitted.*
- (5) *All tenant dwellings shall have indoor sanitary, cooking, and bathing facilities, consistent with the requirements of the Uniform Statewide Building Code.*

*The following definition for **"Tenant Dwelling"** was taken from Loudoun County's Zoning Ordinance: A dwelling occupied by a person or family that derives all or part of their income from labor performed on the farm. Tenant dwellings may include freestanding dwellings, manufactured dwellings, or apartments in an accessory farm building. If approved, this definition will be added to Section 12>.*

2-502 Limitation on the Occupancy of a Dwelling Unit

A dwelling unit may be occupied by not more than:

1. One (1) family, consisting of not more than one (1) person, or two (2) or more persons related by blood or marriage, not to exceed two (2) roomers or boarders and with any number of natural children, foster children, step children or adopted children, or
2. A group of not more than four (4) persons not related by blood or marriage **functioning as a single housekeeping unit.**
*<Prince William County uses 3 people as the key number and Fairfax County uses 4 people. Both counties have the newly proposed language as part of their Ordinance. In addition, we could add the following provision which is found in the Fairfax Zoning Ordinance: **Any group housekeeping unit which may consist of not more than ten (10) persons as may be approved by the Board of Zoning Appeals in accordance with the provisions of Section 11-200>***
3. A residential facility in which no more than eight mentally ill, mentally retarded, or developmentally disabled persons reside, with one or more resident counselors or other staff persons, shall be considered for all purposes residential occupancy by a single family. For the purposes of this paragraph, mental illness and developmental disability shall not include current illegal use of or addiction to a controlled substance as defined in Section 54.1-3401. No conditions more restrictive than those imposed on residences occupied by persons related by blood, marriage, or adoption shall be imposed on such facility. A residential facility shall be deemed to be any group home or other residential facility for which the Department of Mental Health, Mental Retardation

and Substance Abuse Services is the licensing authority pursuant to the Code of Virginia.

2-503 Sewer and Water Facility Requirements

All structures built hereafter shall meet the requirements for wastewater and water facilities as set forth in this Ordinance, the Subdivision Ordinance and the Health Department Regulations.

2-504 Use Limitations in Yard Areas

1. In required yard area in any Commercial or Industrial Zoning Districts, no goods shall be displayed, offered for sale or stored, no service or activity of any kind that is associated with the primary use of the property shall be performed except as qualified in Paragraph 2 below, and no processing or other industrial operation of any kind shall be carried on, provided that these limitations shall not be construed to prohibit the provisions of required off-street parking spaces in any yard area, except as may be qualified by other provisions of this Ordinance.
2. Service station gasoline pump islands may be located in a required yard area, but in no instance shall a pump island be located nearer than twenty-five (25) feet to any right-of-way line.

2-505 Use Limitations on Corner Lots

1. On every corner lot within the triangle formed by the street lines of such lot and line drawn between points on such lines which are thirty (30) feet from the intersection thereof, there shall be no structure or planting of such nature and dimensions as to obstruct lateral vision other than a point, column or tree trunk. Such lateral vision shall be maintained between two (2) horizontal planes, one of which is three and one-half (3 ½) feet, and the other ten (10) feet above the average elevation of the existing surface of either street at the center line thereof.
2. Since the purpose of this provision is to promote public safety by preserving reasonable sight distance for vehicular traffic at street intersections, the Zoning Administrator may vary the requirements specified in paragraph one above in those instances where structures or plantings between the two horizontal planes do not in fact interfere with sight distance.

~~2-506 Manufactured Dwellings~~

~~Manufactured dwellings, as defined in Article 12, are permitted uses in rural and residential zoning districts pursuant to Article 3 and 4. Manufactured dwellings shall be subject to the regulations and use restrictions contained in Articles 3, 4 and 8. <It is recommended that this paragraph be deleted; it is unnecessary at this location. See memo provided on manufactured homes.>~~

2-507 Limitations on Inoperable and Junk Vehicles

1. The owner of a lot of less than one-half ($\frac{1}{2}$) acre in any district shall not place or store or permit to be placed or stored on his property an inoperable or junk vehicle except in a fully enclosed structure.
2. The owner of a lot of less than one (1) acre in any district shall not place or store or permit to be placed or stored on his property a junk vehicle or more than one (1) inoperable vehicle except in a fully enclosed structure.
3. Except as may be permitted otherwise in this Ordinance, the owner of a lot of one (1) acre or greater in any district shall not place or store or permit to be placed or stored on his property more than two (2) inoperable or junk vehicles.
4. Where permitted in Paragraphs 2 and 3 above, inoperable or junk vehicles not in a fully enclosed structure shall be placed or stored in an upright position and shall not be in any required yard.

2-508 Sales from Vehicles

The sale or offering for sale of goods or services from any vehicle shall be deemed to be a commercial use and shall be subject to all the regulations prescribed for the zoning district in which the same is conducted, but this regulation shall not be deemed to prohibit any vending from vehicles on a public street that is not otherwise prohibited by law.

2-509 Limitation on Private Driveway or Travelway Access for Commercial or Industrial Uses

Travelways and driveways to and from a commercial or industrial use shall be deemed to be integral with such use and shall not be deemed to be a permitted use in any Residential District; provided, however, that if no other means of access is available or reasonably possible, the BZA may permit as a variance the use of a means of access lying wholly or partly within a Residential District to a use in any Commercial or Industrial Zoning District that was so zoned on the effective date of this Ordinance.

2-510 Limitation on Keeping of Animals

1. **Keeping of livestock, fowl and animals of a wild nature shall not be allowed on any lot less than two (2) acres in area. <The Planning Commission discussed whether to decrease the lot area required in order to keep livestock, fowl or animals of a wild nature. Members of the community have asked that the lot size be reduced in order to allow small-scale keeping of livestock on smaller lots in the rural and village districts. The two acre minimum for keeping of livestock is a common threshold in surrounding jurisdictions. Since the minimum lot size in the RA and RC districts is, in fact, two acres, this threshold would appear to be a reasonable one, allowing for property owners living in those districts to have livestock, leaving only the Village zones for a potential change. Staff did find one nearby Virginia County, Madison, which allowed livestock to be kept within some districts on lots of less than two acres by special permit. This approach could be utilized within the Village zones, if the Commission desires. Alternatively, keeping of livestock could be an administrative permit in the Village Zones on parcels less than two acres, with standards established in the zoning ordinance to afford some protection to adjoining neighbors.>**
2. Except for dogs as provided in Subsection 3 below, the keeping of commonly accepted pets shall be allowed as an accessory use on any lot provided such pets are for personal use and enjoyment, and not for any commercial purpose, provided such animals, birds, or fowl are confined to the interior of the dwelling or other permitted accessory buildings.
3. Dogs which are kept as pets not exceeding four (4) in number shall be permitted upon any property if they are confined to the site by chain, pen or other such restraints. Five (5) to twelve (12) dogs may be kept upon the property provided they are penned or restrained so as not to roam nearer than forty (40) feet from any property line and the lot contains two (2) or more acres. Dogs less than six (6) months of age shall not be counted.

2-511 Condominium Conversions

Existing structures and developments may be converted to a condominium as provided for in the Code of Virginia by obtaining approval through one of the following:

1. By administrative approval upon a determination by the Director that the conversion will fully comply with all provisions of this Ordinance and the Fauquier County Subdivision Ordinance; or
2. By special permit approval by the BZA employing the procedures and standards set forth in Part 6 of Article 9.

2-512 Restrooms at Gasoline Stations

Public restrooms shall be provided at all facilities selling gasoline. Separate restrooms shall be available for men and women. Such restrooms shall be provided and maintained in accordance with Health Department requirements.

PART 6 2-600 SITE PLAN REVIEW

2-601 Site Plan Required

Site plan approval is required prior to the development of any land when the uses fall within the following categories:

1. **All uses in the commercial and industrial districts, including the PCID special planned district.**
2. All uses requiring a zoning permit in the rural and residential districts, including the PRD planned district, except for:
 - A. Agricultural structures
 - B. Single-family detached dwellings
 - C. Accessory uses and structures allowed pursuant to Part 7 of Article 8.
3. Special exception and special permit uses for which the Board or BZA require a site plan as a condition of approval.
4. When an alteration or amendment is proposed to a previously approved site plan.
5. When an existing residential use is proposed for a change to a commercial, industrial or multi-family residential unit.
6. All public buildings and institutions.

<Under the existing Zoning Ordinance, site plan requirements are determined by Use rather than by Zone. This language bases the requirement on Zone rather than use, which may have created some unintended consequences. For example, a single family home in a commercial zone would require a site plan under the above language, as would any agricultural use occurring in a commercial/industrial zone. The above language also requires temporary uses and home occupations to secure a site plan. Staff would recommend a return to language that based the requirement for a site plan primarily on the Use rather than on the Zone category. The following language would require site plans for those uses where site plans are currently required:

Prior to any development, a site plan is required for all uses except the following categories and uses:

- 1. Residential development other than single family attached and multifamily dwelling;*
- 2. Residential businesses other than auto repair garages;*
- 3. Temporary uses*
- 4. Equestrian facilities (boarding and instruction)(non-spectator)*
- 5. Professional offices with 3 or fewer employees*
- 6. Agricultural uses other than greenhouses over 10,000 sq.ft. or with retail sales; wineries; lumber yards; and farmer's and community markets.*

2-601 Site Plan Regulations

The requirements for submission, review and approval of all site plans shall be pursuant to Part 7 of Article 9. Special standards and regulations for site plans shall be in accordance with Part 2 of Article 8.

PART 7 2-700 PLANNING COMMISSION PERMITS

2-701 Planning Commission Permit Required

Section 15.2-2232 of the Code of Virginia requires Planning Commission review and approval of specified public improvements as being in substantial conformance with the Comprehensive Plan unless such improvements are already shown on the adopted Comprehensive Plan. The improvements requiring a Planning Commission Permit include the construction, establishment or authorization of streets or connections to existing streets; parks or other public areas; public buildings or public structures; and public utility facilities or public service corporation facilities other than railroads.

2-702 Planning Commission Review Requirements

The procedures for Planning Commission review and approval shall be pursuant to Part 8 of Article 9.